

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

DR 1998-017590

03/16/2012

HONORABLE JOSE S. PADILLA

CLERK OF THE COURT

D. Berkland

Deputy

IN RE THE MATTER OF
JAIME DEMERY

JAIME DEMERY
13190 W TARA LN
SURPRISE AZ 85374

AND

MICHAEL S GROGITSKY

MICHAEL S GROGITSKY
13458 W WATSON LN
SURPRISE AZ 85379

CHILD PROTECTIVE SERVICES
CONCILIATION SERVICES-CCC
CONCILIATION SERVICES-NW
TASC - GLENDALE
TASC - PHOENIX
CPS - AVONDALE
290 E LACANADA
AVONDALE AZ 85323
CPS - PEORIA
8990 W PEORIA
2ND FLOOR
PEORIA AZ 85345

MINUTE ENTRY

Courtroom 122

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9:14 a.m. This is the time set for Status Conference re: Respondent's Petition to Modify Custody, Parenting Time and Child Support filed on November 4, 2011. Petitioner is present appearing on her own behalf. Respondent is present appearing on his own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Jaime Demery and Michael Grogitsky are sworn.

The Court reviews and summarizes the issues pending before it.

Discussion ensues with regard to the current status of the above-captioned matter.

Pursuant to the discussion held,

BOTH PARTIES TO PARTICIPATE IN TASC TESTING

IT IS ORDERED that Father and Mother shall participate in drug and alcohol testing.

IT IS FURTHER ORDERED:

1. Father and Mother shall appear in person at TASC, Inc. at 2234 North 7th Street, Phoenix, at 423 N. Country Club Drive, Suite 19, in Mesa, or at 5955 W. Myrtle Avenue, Suites 2-4, Glendale before 6:00 p.m. on March 16, 2012.
2. Father and Mother shall present to TASC the Court Ordered Substance Abuse Testing form issued by this Court, and shall provide all information necessary for its completion;
3. Father and Mother shall provide such samples as are reasonably required by TASC to comply with this Order. Father and Mother shall submit to the Screen A drug test (full spectrum of drugs including alcohol).
4. Father and Mother shall sign, execute and deliver such forms of consent and authorization as shall be reasonably required by TASC to comply with this Order;
5. The results of said testing shall be reported directly to this Court in writing by TASC, with copies provided to counsel for both parties, or directly to the parties, if unrepresented;

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6. Father and Mother shall report for subsequent testing as directed by TASC, and shall present a photo I.D. at time of testing, along with any prescription medications currently being taken;

7. Father and Mother shall pay the costs of his or her own testing IN MONEY ORDER OR CASHIER'S CHECK at the time of testing.

8. All parties are advised that the failure, neglect or refusal to participate in testing may be considered an admission by the party that the testing, if conducted, would have revealed the use of the substance(s) tested for, which finding is contrary to the best interest of the child; failure to submit to a drug test, absent good cause shown, may result in a finding of Contempt of Court, incarceration in the Maricopa County Jail, issuance of a Civil Arrest Warrant or other sanctions by the Court;

9. The parties are also advised that a diluted test specimen shall be considered an attempt to conceal the presence of illicit drugs, and therefore interpreted as positive, which finding is contrary to the best interest of the child;

10. In the event the initial urine analysis results are positive for drug use, the person/persons testing positive shall be randomly tested NOT LESS THAN ONCE A WEEK continuing until such time as that person has produced eight (8) "clean", random, non-diluted Screen "A" urine analysis tests.

11. The parties are hereby advised that test results ARE NOT confidential.

REFERRAL TO CONCILIATION SERVICES RE:
PARENTING CONFERENCE WITH CHILD INTERVIEW

IT IS FURTHER ORDERED the parties shall participate in a **Parenting Conference (to include a child interview if no agreements are reached at the parenting conference.)** The parties will be advised by separate minute entry of the name and telephone number of the Parenting Conference Provider and other relevant information regarding the Parenting Conference. The parties shall comply with all instructions and directives issued by the Provider.

LET THE RECORD REFLECT both parties request a deferral of the Parenting Conference Fee.

Good cause appearing,

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IT IS ORDERED that if either party is unable to afford the entire Parenting Conference Fee of \$300 per party today, and is deemed eligible for a payment plan, they may make monthly payments pursuant to the following payment plan:

- Petitioner/Mother shall pay her portion of the Parenting Conference Fee at a rate of \$25 per month to the Clerk of Court beginning on April 1, 2012;
- Respondent/Father shall pay his portion of the Parenting Conference Fee at a rate of \$50 per month to the Clerk of Court beginning on April 1, 2012.

Discussion is held with regard to a temporary parenting schedule.

Pursuant to the discussion held.

IT IS ORDERED that Mother shall have temporary parenting time with the child every Monday and Wednesday, from 4:00 p.m. through 7:00 p.m. Parenting time shall commence on Tuesday, March 20, 2012.

IT IS FURTHER ORDERED that Mother shall pick the child up from school at the commencement of her parenting time; Father shall pick the child up from Mother's at the conclusion of Mother's parenting time.

IT IS FURTHER ORDERED that neither parent shall make disparaging comments about the other parent while in the presence of the minor child.

Petitioner/Mother requests to see the child on Saturday, March 16, 2012 for approximately 30 minutes.

There being no objection,

IT IS ORDERED that Mother shall have parenting time with the child for a period of thirty (30) minutes on Saturday, March 16, 2012 at 3:00 p.m. which shall occur at Barnes & Noble, located in Surprise, AZ. Father shall deliver the child to Barnes & Noble Bookstore located at West Point Parkway, Surprise, Arizona at 3:00 p.m.

**CHILD PROTECTIVE SERVICES TO PROVIDE COMPLETE
INVESTIGATIVE REPORT**

IT IS FURTHER ORDERED directing Child Protective Services to provide the Court with the investigative reports pertaining to all individuals associated with the above-captioned

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case. CPS is request to provide this Court with one original copy and one redacted copy for an in camera inspection prior to the next hearing.

EVIDENTIARY HEARING

IT IS FURTHER ORDERED setting the above-captioned case for **Evidentiary Hearing re: Respondent's Petition to Modify Child Custody, Parenting Time and Child Support** on **May 31, 2012 at 2:00 p.m.** (2½ hours allotted) before the Honorable Jose S. Padilla, located at 14264 West Tierra Buena Lane, Courtroom 122, Surprise, Arizona 85374.

Each party is directed to provide the Court with their recent paycheck stubs, W-2's, and tax returns at the time of the hearing.

Pursuant to Rule 77(C)(5), *Arizona Rules of Family Law Procedure*, each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are advised the Court will utilize a portion of the time for its ruling. The parties are expected to complete the hearing in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least thirty (30) days prior to hearing setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

FAMILY COURT PRE-TRIAL STATEMENT [FORM DRPTS 16F]

IT IS FURTHER ORDERED that each party shall fully complete and file a Family Court Pre-Trial Statement [form DRPTS 16f] in proper form without argument, narrative statements or other documents, and provide a copy to the adverse party and to this Division at least 5 judicial days before the Conference. The Court is required to consider the reasonableness of each party's positions, including the failure to take a position, in any subsequent requests for attorney's fees made pursuant to A.R.S. §§ 25-324 and 12-349. The Resolution Statement may be obtained through the Self Service Center. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/familyCourt/pdf/resolutionStmnt.pdf>.

IT IS FURTHER ORDERED that the Family Court Pre-Trial Statement [form DRPTS 16f] shall include:

1. A current Affidavit of Financial Circumstances.
2. If there are disputed custody, access or visitation issues, a specific proposal for custody and parenting time.

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3. If there are disputed child support issues, a current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.

4. If the parties have a natural or an adopted minor unemancipated child in common, proof of compliance with the Parental Education Program requirements of A.R.S. §25-351 et seq.

5. If there is a disputed issue regarding the payment of attorney's fees by either party, an affidavit of the attorney's fees claimed submitted in accordance with the requirements of Rule 78(D), *Arizona Rules of Family Law Procedure*.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of trial, or to timely present the Family Court Pre-Trial Statement [form DRPTS 16f] in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 76(D), *Arizona Rules of Family Law Procedure* and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

EXHIBITS

IT IS FURTHER ORDERED that, if either party has more than 5 exhibits to be marked, counsel or the parties shall deliver said exhibits to the Clerk **at least five (5)** business days prior to trial. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

1. Counsel and/or the parties shall submit all exhibits to this division by 5:00 p.m. on May 24, 2012. Exhibits shall not be filed at the Clerk of Court filing counter.

2. The exhibit packet shall contain a title page which states the case number, whether the exhibits are Petitioner's or Respondent's and the date for the hearing. Failure to clearly indicate which party is presenting the exhibits may result in the exhibits being marked incorrectly or not being marked at all.

3. Each exhibit shall be stapled if it contains more than one page. Each exhibit shall be clearly separated from the other exhibits, preferably by placing a colored page in between each exhibit. Do not staple the colored pages to the exhibits. Do not write or type on the colored pages. The clerk will reuse the colored pages if they are left blank. Failure to clearly separate each exhibit may result in the exhibits being marked differently than counsel and/or the parties intended, such as multiple exhibits being marked as one exhibit.

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4. The exhibits shall be marked in the order received. For example, if Respondent's exhibits are received first, Respondent's exhibits will be marked first, i.e., Respondent's exhibits 1 through 5, and Petitioner's exhibits will follow Respondent's exhibits in number, i.e., Petitioner's exhibits 6 through 10.

5. Duplicate exhibits shall not be presented.

6. The parties shall provide the adverse party with a separate copy of all exhibits.

Information regarding exhibits for parties not represented by counsel:

The Court does not automatically review exhibits. Each party will need to offer his/her exhibits into evidence during the hearing by stating to the Court that he/she is offering exhibit(s) 1, 2, 3, etc. The party will need to explain the relevance of each exhibit to the Court. Exhibits that are not received into evidence during the hearing will be returned to the party at the conclusion of the hearing without the Court reviewing the exhibit(s).

IT IS FURTHER ORDERED that the parties shall indicate in the Family Court Pre-Trial Statement [form DRPTS 16f] which exhibits they have agreed will be admissible at hearing as well as any specific objections that will be made to any exhibit if offered at hearing which is not agreed to be admitted. Reserving all objections to the time of hearing will not be permitted. At the time of hearing all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Family Court Pre-Trial Statement [form DRPTS 16f] shall be summarily admitted.

NOTICE

You may request conclusions of fact and law on the following issues, if they are contested: the issues of child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the court before the trial or the evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the court will make conclusions of fact and law as part of the final decision.

If any party asks the court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

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SETTLEMENT

IT IS FURTHER ORDERED in the event a full settlement is reached prior to the time of trial, the parties or counsel, if represented, **shall** present the formal written Consent Decree of Dissolution, Judgment or the agreement signed and notarized by all parties, prior to 5:00 p.m. the **day prior to** the scheduled hearing[if set on the Court's morning calendar the following day, e.g., 9:00 to 11:55 a.m.] or **not later than** 9:00 a.m. on the day of hearing[if the hearing is set on the Court's afternoon calendar, e.g., 1:30 to 4:55 p.m.].

In the event the agreement has not been reduced to writing, then in that event, **all parties** and their counsel, if represented, shall appear at the time designated for hearing to recite the agreement on the record and have it entered as the order of the court pursuant to *Rule 69, (Arizona Rules of Family Law Procedure hereinafter AzRFLP)*.

If the signed Consent Decree, Judgment or agreement is not received by the Court pursuant to these guidelines, and the parties and/or their respective counsels, if any, fail to appear as ordered, the Court **shall dismiss the case in its entirety, without prejudice** and the matter **will not** be reinstated but for the most compelling of reasons. See *Rule 70(B)*.

POSTPONEMENTS AND SCHEDULE CHANGES

Continuances, postponements and schedule changes will not ordinarily be granted. Any postponement or change will be granted only in accordance with appropriate rules, based on a showing of good cause, and requires the express written approval of the Court.

DISCLOSURE/DISCOVERY

IT IS ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall complete all disclosure requirements required by Rules 49 and 50, *Arizona Rules of Family Law Procedure*, including an exchange of all relevant information, documents and exhibits on or before **May 18, 2012**.

2. All depositions and discovery contemplated by Rules 49 through 65, *Arizona Rules of Family Law Procedure*, shall be completed and any motions regarding discovery shall be filed no later than **May 11, 2012**.

3. Counsel and both parties shall personally meet, face to face, at least ten (10) days prior to hearing to conduct settlement discussions, prepare a Family Court Pre-Trial Statement

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[form DRPTS 16f], exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.

4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company, business, medical or health care provider or employer possessing any relevant information.

If a party is forced to incur attorney's fees or other costs to obtain documents or records by subpoena or other legal process after reasonable request of the other party to obtain such information in a more efficient or economical manner, the Court will consider a request for payment or reimbursement of such fees and costs at the time of trial.

IF ONLY ONE PARTY APPEARS, THE COURT MAY ENTER A DEFAULT AGAINST THE ABSENT PARTY, AND ALLOW THE PARTY THAT APPEARS TO PROCEED BY DEFAULT AND/OR ISSUE A CIVIL ARREST FOR THE PARTY WHO FAILS TO APPEAR. IF BOTH PARTIES FAIL TO APPEAR, THE ENTIRE CASE MAY BE DISMISSED, WITHOUT FURTHER NOTICE TO EITHER PARTY.

ISSUED: Court Ordered Substance Abuse Testing

IT IS FURTHER ORDERED signing this minute entry as a formal Order of the Court this 16th day of March 2012.

/s/ Hon. Jose S. Padilla

Honorable Jose S. Padilla
Superior Court Judge

9:55 a.m. Matter concludes.

FILED: Acknowledgment and Notice of Parenting Conference (2)

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov>.